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AN INTRODUCTION TO THE ONTARIO HIGHWAY TRANSPORT BOARD

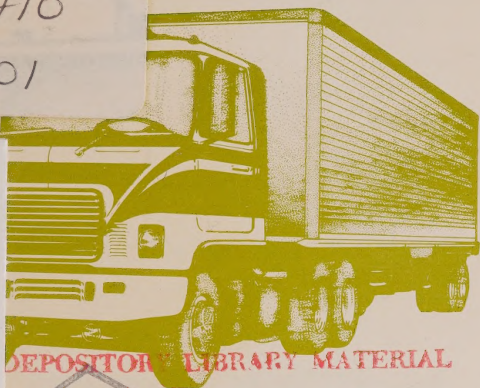
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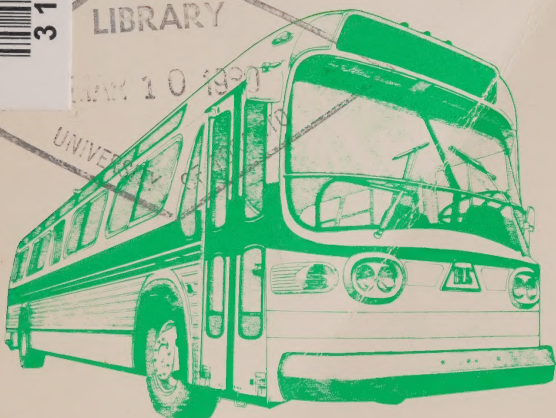


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ONTARIO HIGHWAY
TRANSPORT BOARD



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**Do you presently, or
Do you desire to
transport people or
goods in Ontario
for compensation?**

**If the answer is
YES,
this booklet will be of
interest to you.**

**published by the
ONTARIO HIGHWAY TRANSPORT BOARD**



Ontario

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The laws of Ontario and Canada provide that any person carrying people or another person's goods for hire, reward or compensation beyond the limits of an urban municipality must hold an **OPERATING LICENCE**.*

An operating licence entitles its holder to carry on the transportation services set out by the licence.

There are 3 basic types of operating licence, each one issued under the authority of a different Act.

The Provincial Acts are:

- **THE PUBLIC VEHICLES ACT** (The PV Act) and
- **THE PUBLIC COMMERCIAL VEHICLES ACT** (The PCV Act).

The federal Act is:

- **THE MOTOR VEHICLE TRANSPORT ACT (CANADA)** (MVT Act).

THE PUBLIC VEHICLES ACT deals with the transportation of **PEOPLE** and express freight associated therewith.

THE PUBLIC COMMERCIAL VEHICLES ACT deals with the transportation of **GOODS**.

THE MOTOR VEHICLE TRANSPORT ACT (CANADA) deals with the transportation of **PEOPLE OR GOODS INTO, OUT OF OR THROUGH THE PROVINCE OF ONTARIO**.

* Certain for-hire transport is exempt from licensing. For exact details, call the Board or reference S 2 of the PCV Act (as amended) and S 1 & 2 of the PV Act.

Transportation Services which may be licensed under the PUBLIC VEHICLES ACT include:

- Regular route
- Charter, tour, special trips
- School bus

Transportation services which may be licensed under the PUBLIC COMMERCIAL VEHICLES ACT will be in one of the following categories:

Class A, C, D, E, F, FS, H, K, R, T, W or, a licence for a freight forwarder.

Each of these classes is for a different type of trucking service based on one or more of the following criteria:

- Type of vehicle
- Type of commodity
- Relationship of the carrier and consignor or consignee(s)
- Route
- Place of origin or destination

Transportation services falling under the MVT ACT are licensed separately. Licences are referred to as Extra-Provincial or "Class X" licences.

WHO ISSUES LICENCES?

The Minister of Transportation and Communications of Ontario.

ON WHAT BASIS?

The Minister may issue a licence in accordance with a CERTIFICATE OF PUBLIC NECESSITY AND CONVENIENCE issued by the Board.

A WHAT?

A CERTIFICATE OF PUBLIC NECESSITY AND CONVENIENCE.

This is a document issued by the Board which advises the Minister that in the Board's opinion, the particular transportation service proposed should be licensed and specifies the terms and conditions to which the service should be subject.

WHAT IS PUBLIC NECESSITY AND CONVENIENCE?

This term is used in the provincial Acts mentioned earlier. It is the test which an applicant for a licence must meet to be granted a licence.

In applying this test, the Board may consider any facts which it feels are relevant, and *is required* to consider certain policy statements issued by the government from time to time. At the time of writing, there are two which are of general application. They deal with questions of public necessity and convenience generally under the PV Act and the PCV Act.

The PV Act Policy Statement refers to such matters as:

- availability of service
- integration with other passenger transportation systems
- competition
- the economics of licensed carriers
- cross subsidy
- scale and style of operations

The **PCV ACT POLICY STATEMENT** refers to such matters as:

Ontario's economic productivity

capital, equipment and manpower resources

energy and empty movements

level and type of service

cost

competition

innovation in service levels, equipment, design and utilization, administration and freight-handling procedures;

intra-modal and inter-modal co-ordination; and

size of operations

You should be familiar with the details of these and other policy statements which may be issued from time to time. Copies are available on request.

The Board is not limited by these statements. It may and does consider many other matters in particular hearings. For example, it may consider such things as:

fitness of the applicant

the ability and willingness of presently licensed carriers to perform the service

past operating performance of the applicant

financial strength of the applicant

how the applicant intends to acquire and maintain vehicles for the service

how continuous the demand for service will be.

This pamphlet is designed to be a simple outline of how the Board functions, but the concept of public necessity and convenience is by its nature somewhat complex. It is hoped that the foregoing outline of some of the elements of public necessity and convenience will be of assistance to readers. Should you have further questions, please call or write the Board.

HOW DO I APPLY?

- Obtain an application form from the Ministry of Transportation & Communications or the Board
- Discuss with Board staff the procedure for completing the form
- File the completed application together with the appropriate fee with the Ministry or the Board

WHAT HAPPENS NEXT?

- The application will then be considered by the Board. It may require a full public hearing, or it may be dealt with by the Board "in chambers"
- Regardless, the Board will give notice to the public that the application is to be considered by publication in the Ontario Gazette.
- Any person may object to the approval of the application by filing a NOTICE OF OBJECTION with the Board and serving a copy upon the applicant within specified times.
- It is the applicant's responsibility to prove to the Board that the service applied for is necessary and convenient. In a public hearing, the applicant must bring public witnesses to support the need for the service.

DO I NEED A LAWYER?

- The choice is one *you* must make.
- Some hearings are relatively uncomplicated, but others may be complex and take longer to complete.
- Applicants and respondents are often represented by counsel or agents familiar with the operations of the Board.
- The Board and parties to a hearing are bound by law which establishes some procedures which must be followed. Furthermore, members who sit must remain absolutely impartial until a decision is made.
- If you choose to proceed without counsel, you should learn as much as you can about its procedures before your hearing. OBSERVE A HEARING OR TWO; ASK OUR STAFF QUESTIONS AND SPEAK TO ANYONE YOU KNOW WHO HAS APPEARED BEFORE THE BOARD IN THE PAST.

SOME COMMENTS ON THE BOARD

- The Board is established by the laws of Ontario to regulate entry into the for-hire bus and truck industries.
- It operates subject not only to the transportation law mentioned in this brochure, but to the laws of Ontario governing the practices and procedures of administrative tribunals.

- These laws protect the rights and privileges of individuals. They require and guarantee a fair hearing to any person who has an expressed interest in an application or other matter being considered by the Board.
- The test of public necessity and convenience can be met by responsible applicants who propose reasonable, well considered transportation services. The need for proposed services must be supported by good documentary evidence and/or public witnesses.
- Board decisions are final and binding subject only to the appeal provisions set out in the Ontario Highway Transport Board Act.
- Although all decisions of the Board must be given in writing, the Board does not as a general rule issue written reasons for its decisions unless requested to do so by a party to a hearing.

The Board not only regulates for-hire bus and truck operations, it assists people who may require an operating licence.

Board staff can be reached any working day.

PLEASE CALL OR WRITE WITH ANY QUESTIONS.



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